

CONFERENCE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NOS. 256, 33, & 305

AN ACT

To repeal sections 610.021 and 610.150, RSMo, and to enact in lieu thereof three new sections relating to public safety, with an emergency clause.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Sections 610.021 and 610.150, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 610.021, 610.150, and 1, to read as follows:

610.021. Except to the extent disclosure is otherwise required by law, a public governmental body is authorized to close meetings, records and votes, to the extent they relate to the following:

(1) Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys. However, any minutes, vote or settlement agreement relating to legal actions, causes of action or litigation involving a public governmental body or any agent or entity representing its interests or acting on its behalf or with its authority, including any insurance company acting on behalf of a public government body as its insured, shall be made

1 public upon final disposition of the matter voted upon or upon
2 the signing by the parties of the settlement agreement, unless,
3 prior to final disposition, the settlement agreement is ordered
4 closed by a court after a written finding that the adverse impact
5 to a plaintiff or plaintiffs to the action clearly outweighs the
6 public policy considerations of section 610.011, however, the
7 amount of any moneys paid by, or on behalf of, the public
8 governmental body shall be disclosed; provided, however, in
9 matters involving the exercise of the power of eminent domain,
10 the vote shall be announced or become public immediately
11 following the action on the motion to authorize institution of
12 such a legal action. Legal work product shall be considered a
13 closed record;

14 (2) Leasing, purchase or sale of real estate by a public
15 governmental body where public knowledge of the transaction might
16 adversely affect the legal consideration therefor. However, any
17 minutes, vote or public record approving a contract relating to
18 the leasing, purchase or sale of real estate by a public
19 governmental body shall be made public upon execution of the
20 lease, purchase or sale of the real estate;

21 (3) Hiring, firing, disciplining or promoting of particular
22 employees by a public governmental body when personal information
23 about the employee is discussed or recorded. However, any vote
24 on a final decision, when taken by a public governmental body, to
25 hire, fire, promote or discipline an employee of a public
26 governmental body shall be made available with a record of how
27 each member voted to the public within seventy-two hours of the
28 close of the meeting where such action occurs; provided, however,

1 that any employee so affected shall be entitled to prompt notice
2 of such decision during the seventy-two-hour period before such
3 decision is made available to the public.

4 As used in this subdivision, the term "personal information"
5 means information relating to the performance or merit of
6 individual employees;

7 (4) The state militia or national guard or any part
8 thereof;

9 (5) Nonjudicial mental or physical health proceedings
10 involving identifiable persons, including medical, psychiatric,
11 psychological, or alcoholism or drug dependency diagnosis or
12 treatment;

13 (6) Scholastic probation, expulsion, or graduation of
14 identifiable individuals, including records of individual test or
15 examination scores; however, personally identifiable student
16 records maintained by public educational institutions shall be
17 open for inspection by the parents, guardian or other custodian
18 of students under the age of eighteen years and by the parents,
19 guardian or other custodian and the student if the student is
20 over the age of eighteen years;

21 (7) Testing and examination materials, before the test or
22 examination is given or, if it is to be given again, before so
23 given again;

24 (8) Welfare cases of identifiable individuals;

25 (9) Preparation, including any discussions or work product,
26 on behalf of a public governmental body or its representatives
27 for negotiations with employee groups;

28 (10) Software codes for electronic data processing and

1 documentation thereof;

2 (11) Specifications for competitive bidding, until either
3 the specifications are officially approved by the public
4 governmental body or the specifications are published for bid;

5 (12) Sealed bids and related documents, until the bids are
6 opened; and sealed proposals and related documents or any
7 documents related to a negotiated contract until a contract is
8 executed, or all proposals are rejected;

9 (13) Individually identifiable personnel records,
10 performance ratings or records pertaining to employees or
11 applicants for employment, except that this exemption shall not
12 apply to the names, positions, salaries and lengths of service of
13 officers and employees of public agencies once they are employed
14 as such, and the names of private sources donating or
15 contributing money to the salary of a chancellor or president at
16 all public colleges and universities in the state of Missouri and
17 the amount of money contributed by the source;

18 (14) Records which are protected from disclosure by law;

19 (15) Meetings and public records relating to scientific and
20 technological innovations in which the owner has a proprietary
21 interest;

22 (16) Records relating to municipal hotlines established for
23 the reporting of abuse and wrongdoing;

24 (17) Confidential or privileged communications between a
25 public governmental body and its auditor, including all auditor
26 work product; however, all final audit reports issued by the
27 auditor are to be considered open records pursuant to this
28 chapter;

1 (18) Operational guidelines, [and] policies and specific
2 response plans developed, adopted, or maintained by any public
3 agency responsible for law enforcement, public safety, first
4 response, or public health for use in responding to or preventing
5 any critical incident which is or appears to be terrorist in
6 nature and which has the potential to endanger individual or
7 public safety or health. Financial records related to the
8 procurement of or expenditures relating to operational
9 guidelines, policies or plans purchased with public funds shall
10 be open. When seeking to close information pursuant to this
11 exception, the public governmental body shall affirmatively state
12 in writing that disclosure would impair the public governmental
13 body's ability to protect the security or safety of persons or
14 real property, and shall in the same writing state that the
15 public interest in nondisclosure outweighs the public interest in
16 disclosure of the records [Nothing in this exception shall be
17 deemed to close information regarding expenditures, purchases, or
18 contracts made by an agency in implementing these guidelines or
19 policies. When seeking to close information pursuant to this
20 exception, the agency shall affirmatively state in writing that
21 disclosure would impair its ability to protect the safety or
22 health of persons, and shall in the same writing state that the
23 public interest in nondisclosure outweighs the public interest in
24 disclosure of the records. This exception shall sunset on
25 December 31, 2012];

26 (19) Existing or proposed security systems and structural
27 plans of real property owned or leased by a public governmental
28 body, and information that is voluntarily submitted by a

1 nonpublic entity owning or operating an infrastructure to any
2 public governmental body for use by that body to devise plans for
3 protection of that infrastructure, the public disclosure of which
4 would threaten public safety:

5 (a) Records related to the procurement of or expenditures
6 relating to security systems purchased with public funds shall be
7 open;

8 (b) When seeking to close information pursuant to this
9 exception, the public governmental body shall affirmatively state
10 in writing that disclosure would impair the public governmental
11 body's ability to protect the security or safety of persons or
12 real property, and shall in the same writing state that the
13 public interest in nondisclosure outweighs the public interest in
14 disclosure of the records;

15 (c) Records that are voluntarily submitted by a nonpublic
16 entity shall be reviewed by the receiving agency within ninety
17 days of submission to determine if retention of the document is
18 necessary in furtherance of a state security interest. If
19 retention is not necessary, the documents shall be returned to
20 the nonpublic governmental body or destroyed;

21 [(d) This exception shall sunset on December 31, 2012;]

22 (20) The portion of a record that identifies security
23 systems or access codes or authorization codes for security
24 systems of real property;

25 [(20)] (21) Records that identify the configuration of
26 components or the operation of a computer, computer system,
27 computer network, or telecommunications network, and would allow
28 unauthorized access to or unlawful disruption of a computer,

1 computer system, computer network, or telecommunications network
2 of a public governmental body. This exception shall not be used
3 to limit or deny access to otherwise public records in a file,
4 document, data file or database containing public records.

5 Records related to the procurement of or expenditures relating to
6 such computer, computer system, computer network, or
7 telecommunications network, including the amount of moneys paid
8 by, or on behalf of, a public governmental body for such
9 computer, computer system, computer network, or
10 telecommunications network shall be open;

11 [(21)] (22) Credit card numbers, personal identification
12 numbers, digital certificates, physical and virtual keys, access
13 codes or authorization codes that are used to protect the
14 security of electronic transactions between a public governmental
15 body and a person or entity doing business with a public
16 governmental body. Nothing in this section shall be deemed to
17 close the record of a person or entity using a credit card held
18 in the name of a public governmental body or any record of a
19 transaction made by a person using a credit card or other method
20 of payment for which reimbursement is made by a public
21 governmental body; and

22 [(22)] (23) Records submitted by an individual,
23 corporation, or other business entity to a public institution of
24 higher education in connection with a proposal to license
25 intellectual property or perform sponsored research and which
26 contains sales projections or other business plan information the
27 disclosure of which may endanger the competitiveness of a
28 business.

1 610.150. Except as provided by this section, any
2 information acquired by a law enforcement agency or a first
3 responder agency by way of a complaint or report of a crime made
4 by telephone contact using the emergency number, "911", shall be
5 inaccessible to the general public. However, information
6 consisting of the date, time, specific location and immediate
7 facts and circumstances surrounding the initial report of the
8 crime or incident shall be considered to be an incident report
9 and subject to section 610.100. Any closed records pursuant to
10 this section shall be available upon request by law enforcement
11 agencies or the division of workers' compensation or pursuant to
12 a valid court order authorizing disclosure upon motion and good
13 cause shown.

14 Section 1. Any records or flight logs pertaining to any
15 flight or request for a flight after such flight has occurred by
16 any elected member of either the executive or legislative branch
17 shall be open public records under chapter 610, unless otherwise
18 provided by law. The provisions of this section shall only apply
19 to a flight on a state-owned plane.

20 Section B. Because immediate action is necessary to protect
21 sensitive public records relating to public agency plans to
22 prevent and respond to possible terrorist incidents and to
23 protect security system plans for certain critical public and
24 private buildings and facilities, the repeal and reenactment of
25 section 610.021 of section A of this act is deemed necessary for
26 the immediate preservation of the public health, welfare, peace,
27 and safety, and is hereby declared to be an emergency act within
28 the meaning of the constitution, and the repeal and reenactment

1 of section 610.021 of section A of this act shall be in full
2 force and effect upon its passage and approval.

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